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ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 25th May, 1957.

S R.O. 1844.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No 338 of 1957, presented to the Commission on the 27th April, 1957, under section 81 of the said Act, by Shri Shanti Lal son of Durlabhji, Durlabh Kunj, New Colony, Jaipur, Shri Vishavnath Waman Kale son of Waman Gopal Kale, resident of Bagru-walan-ka-Rasta, Jaipur, and Shri Komal son of Barisal Singh, resident of Hathl Babu Ka Bag, Jaipur, respectively, calling in question the election to the House of the People from the Jaipur Parliamentary constituency of that House of Shri Harish Chandra Sharma son of Shri Chandra Bhan Sharma, resident of Purani Basti, Jaipur City.

Presented to me by Shri Komal whose signature has been obtained in the margin and attested as having been signed before me this the twenty seventh day of April One Thousand Nine Hundred and Fifty Seven

(Sd.) DIN DAYAL, Under Secy.

The 27th April 1957.

Election Commission, India.

(Sd.) KOMAL.

Attested.

(Sd.) DIN DAYAL, Under Secy.

The 27th April 1957.

TO THE ELECTION COMMISSION OF INDIA, NEW DELHI.

ELECTION PETITION No. 338 OF 1957.

- (i) Shanti Lal son of Durlabhji by caste Hindu resident of Durlabh Kunj, New Colony, Jaipur.
- (ii) Vishavnath Waman Kale son of Waman Gopal Kale by caste Hindu resident of Bagru-walan-ka-Rasta, Jaipur.
- (iii) Komal son of Barisal Singh by caste Hindu resident of Hathl Babu Ka Bag, Jaipur—*Petitioners.*

Versus

- (i) Shri Harish Chandra Sharma son of Shri Chandra Dhan Sharma by caste Brahmin, resident of Purani Basti, Jaipur City.
- (ii) Shri Sadiq Ali son of Shri Tahir Ali caste Muslim resident of Barwadi, Udaypore.—*Respondents*.

Election petition challenging the Election of Shri Harish Chandra Sharma to the House of People from the Jaipur Parliamentary Constituency in the General Election held in February and March, 1957 under Sec. 81 of the Representation of People's Act, 1954 (Act No. 43 of 1951).

The Humble petition of the petitioners above named respectfully sheweth:

1. That the petitioners are electors in the Parliamentary Constituency of Jaipur and that their numbers in the Electoral Roll of that Constituency are as follows:

- (1). Shanti Lal Durlabhji—Voter No. 228 in Ward No. 9, Jaipur City
- (2). Vishwanath Waman Kale, Voter No. 132 in Ward No. 8A, Jaipur City.
- (3). Kamal—Voter No. 1660 in Ward No. 10, Jaipur City.

2. That the respondents were the contesting candidates for election to the House of the People in the Jaipur Parliamentary Constituency in the last General Election held in February and March, 1957.

3. That the respondent No. 1 Shri Harish Chandra Sharma was declared elected in the House of the People from Jaipur Parliamentary Constituency on 13th of March, 1957 and that according to the said declaration he secured 61270 votes and the respondent No. 2 Shri Sadiq Ali 56766 votes.

4. That the petitioners beg to challenge the election of respondent No. 1 to the House of People from Jaipur Parliamentary Constituency on the following grounds:

- (i) the respondent No. 1 by himself and through his agent made systematic appeal to the Hindu electorate of the said Parliamentary constituency to vote for respondent No. 1 and to refrain from voting for respondent No. 2 on the ground of community and religion viz. on the ground that respondent No. 1 was a Hindu possessing Hindu faith and advocate of Hindu religion and that respondent No. 2 was a Muslim, possessing Muslim faith and advocate of Muslim religion; and thus committed a corrupt practice within the meaning of Sec. 123(3) of the Representation of the People Act, 1951. The aforesaid systematic appeal was made by respondent No. 1 and his agents extensively throughout the constituency from the beginning of February 1957 till the 7th March, 1957 both by oral propaganda and by means of leaflets, handbills and cartoons, copies of which are attached hereto and marked as Annexures A,B,C,D,E and F briefly described as under.

(a) *Annexure 'A'.*

Hindi leaflet headed 'Nivedan' issued by the respondent No. 1 through his agent Shri Gulab Chand Kala, a resident of the constituency in the name of Matadata Sangh. This leaflet refers to the two contesting respondents representing two different religions, a portion of which is reproduced below:

"Hindu Samaj aur dharm par nana prakar ke sankat aur pratibandh aate ja rahe hen unka mukabala sahi tarike se apne andar ka hi koi admi kar sakta hai isliye janta ko ab khoob samajdari aur satarkta se is mamle men dharm ko nibhana hai. Ek taraf 'Hari' hai dusri taraf 'Ali'".

(b) *Annexure 'B'.*

A Hindi cartoon showing a Muslim (referring to respondent No. 2) taking a pair of bullocks to a butcher house by the question marked "Maianaji Kis Ore".

(c) *Annexure 'C'.*

A Hindi cartoon published on both the sides of the paper and purported to give the picture of the two candidates professing two

different religions viz Hindu and Muslim and also containing the cartoon as given in Annexure 'B'.

(d) Annexure 'D'.

A Hindi cartoon similar to 'C' except that it does not contain the cartoon represented in Annexure 'B' on its back.

(e) Annexure 'E'.

Hindi leaflets headed 'Nivedan' issued by the respondent No. 1 through his agent Shri Gulab Chand Kala, a resident of the constituency in the name of Matadata Sangh and printed at Lokvani Press referring to the 2 contesting respondents representing two different religions, an extract of which is given below:

"Hindu" Samaj Aur Dharam par nana prakar ke sankat aur pratibandh ate ja rahe hen unka mukabala sahi tarike se apne andar ka hi koi admi kar sakta hai, islie ap samajdari aur satarkata se niranya karen ankhen mich kar challenge to dharam jati aur samaj ke prati bada apkar hoga".

(f) Annexure 'F'.

A Hindi leaflet issued by respondent No. 1 and printed at Shri Hanuman Press, Jaipur appealing to the Hindu community to refrain from voting for respondent No. 2 on the ground that the latter, i.e. respondent No. 2 was a Muslim and an enemy of the Hindu community and Hindu religion. A portion of this leaflet is reproduced below:

"Sadiq Ali ka Chomu jana aur wohan siraf musalmanon ki meeting karna aur oon Musalman netaon se gath bandhan karna ki Jinhone Chomu ko hi nahin sare Rajasthan balki sare Hindustan ke Hindu Muslimanon ke jhagdon ki neev dali Hinduon ki bahu betion aur ladkon ko vidharmi kumargi banane ka Chomu ko Khas adda banana.....".

- (ii) respondent No. 1 published the following false statement of fact in relation to the personal character and conduct of respondent No. 2, being a statement reasonably calculated to prejudice the prospects of respondent No. 2's election and which the respondent No. 1 believed to be false or at least did not believe to be true, by means of leaflets and oral propaganda:

"Sahar men Congress ke virudh khade hue logon ke sath bhi bandhan karne men sankoch nahin kiya yah baten ees prakar ki hen ki jinse Shri Sadiq Ali ki vartman tasvir samane jarur ajati hai fir bhi hamen ees gandagimen na padana hai na vichar hi karna. Hamare samne to sirf anayav va manumani ka Sahi uttar dene ka hi prashan hai".

The said statement was published by respondent No. 1 by means of Hindi leaflets which were extensively distributed throughout the constituency, a copy of which is attached hereto and marked as Annexure 'F'.

The petitioners submit that respondent No. 2 never held any private or public meeting of purely Muslims at Chomu and never joined hands with any Muslim leaders in any of their aforesaid alleged nefarious activities nor did he ever join hands with the candidates opposing the Congress.

The respondent No. 1 also published the following false statement by means of the said leaflet a copy of which is marked Annexure 'F'.

"Yah bat bhi sahi hai ki is sansadiya chunav ke liye anekon probhabshali sadhan sampanna aur suprakhyata jana sevak samne aye parantu mere tatha janata ke khub anumaya vinay karne parbhi unme se koi apne nischay par kayam nahin raha sakey. Jis prakar ke bejoi dabao dale gaye aur jis prakar ke akarchanon wo pralobhanon ka upayog kiya gaya usne ek bishesh prakar ki parishthiti paida kar di aur janta janamdan ki drishti mujh par hi aa tiki aur mujhe hi is pariksha men upasthit hona pada".

The respondent No 1 thus committed the corrupt practice of publishing false statement within the meaning of Sec 123(4) of the Representation of the People Act, 1951

- (iii) Respondent No 1 himself and through his father Shri Chandrabhan Sharma and his other agents at Jeypore promised to pay Rs 6,000/- or nearabout during the period from 5th February 1957 to 15th February 1957 to Raval Man Singh who was also a candidate to the said election from the same constituency with the object of inducing him to retire from the contest at the said election and did actually pay about Rs 5,000/- to the said Raval Man Singh (during the said period). The respondent No 1 and his father and his other agents thus committed the corrupt practice of bribery within the meaning of Sec 123(1) of the Representation of People Act, 1951

The petitioners submit that respondent No 2 never put any undue pressure on any of the candidates to the said election with the object of making them withdraw from their candidature

- (iv) the respondent No 1 also committed the corrupt practice under Sec. 123(6) of the Representation of People Act, 1951 by incurring himself and through his agents expenditure in excess of Rs 25,000/- the maximum amount prescribed under Rule 135 of the Representation of the People (Conduct of Elections and Election Petition) Rules, 1956. The respondent No 1 did not include all the election expenses in the account of election expenses submitted by him

- (v) that the result of the election in so far as it concerns respondent No 1 has been materially affected by the aforesaid corrupt practices as mentioned in para 4 above

- (vi) that about 90 per cent of the votes obtained by respondent No 1 were those which he obtained by the said corrupt practices. It is submitted that but for the votes obtained by respondent No 1 by such corrupt practices the respondent No 2, the only other contesting candidate would have obtained a majority of valid votes

5 That full particulars of the various Annexures are given in Schedules attached with the petition and which may be deemed a part of the said petition

It is therefore prayed

- 1 That the election of the respondent No 1 be declared void and the respondent No 2 be declared to have been duly elected to the House of People from the Parliamentary Constituency at Jaipur
- 2 Cost of the petition may be awarded to the petitioners
- 3 Such other orders as may be just and proper may also be passed

(Sd) SHANTI LAL

(Sd) VISHVANATH WAMAN KALE,

(Sd) KOMAL

I, Komal s/o Bervisal Singh by caste Hindu resident of Jaipur, one of the petitioners do hereby verify that the contents of the petition are true according to my personal knowledge

(Sd) KOMAL

The 27th April, 1957

[No 82/338/57]

By Order,

DIN DAYAL, Under Secy